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TAGS:CGEN

SUBJECT: U.S. VS. SIMMONS ET AL.

REF: A. HONG KONG 6812; B. HONG KONG 6888

1. DOJ IS MOST GRATEFUL FOR THE INFORMATION PROVIDED IN REFTELS AND IS AIRMAILING TO CONGEN AND USG COUNSEL DETAILED RESPONSES TO QUESTIONS RAISED IN REFTELS, AND SUPPLEMENTARY INFORMATION CONCERNING USG CASE AGAINST SIMMONS, CONSISTING OF:

A. COPY OF OFFICIAL VIETNAMESE PENAL CODE IN EFFECT AT TIME OF SIMMONS' FRAUD, TOGETHER WITH ENGLISH TRANSLATIONS OF RELEVANT PROVISIONS THEREOF FURNISHED BY FOREIGN LAW DIVISION OF LIBRARY OF CONGRESS.

B. INFORMATION RELATIVE TO AVAILABILITY OF VIETNAMESE LAWYERS IN UNITED STATES.

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C. COPIES OF RELEVANT AUTHORIZATION/APPROPRIATION ACT
ESTABLISHING THE VIETNAMESE MILITARY SYSTEMS PROGRAM.

COPIES OF RELEVANT SECTIONS OF TITLE 18 UNITED STATES
CODE TO SHOW POSSIBLE VIOLATIONS OF U.S. LAW, TOGETHER
WITH COURT DECISIONS UPHOLDING EXTRA-TERRITORIAL
APPLICATION THEREOF.

E. COPIES OF DECLASSIFIED MESSAGES AND MEMORANDA WHICH
HAVE HOW BEEN OBTAINED FROM THE DAO REMNANT IN HAWAII.

F. DETAILED MINUTES OF THREE MEETINGS WHICH WERE HELD IN
WASHINGTON, D.C. ON JUNE 20TH AND 23RD BETWEEN DOJ
REPRESENTATIVES AND SIMMONS' HONG KONG COUNSEL.

2. SIMMONS' COUNSEL ARE NOW AWARE THAT CRIMINAL CHARGES IN
THIS COUNTRY ARE BEING CONTEMPLATED, AND SIMMONS MAY
ATTEMPT TO LEAVE U.S. TO AVOID PROSECUTION.

3. SIMMONS' COUNSEL INDICATED THAT THEIR PRIME CONCERN IS

TO FORESTALL CRIMINAL PROSECUTIONS WHICH MIGHT DAMAGE
SIMMONS' STANDING AMONG THE BUSINESS COMMUNITY.

4. RE CIVIL CASE: SETTLEMENT OFFER, CONDITIONED ON
IMMUNITY FROM CRIMINAL PROSECUTION, WAS NOT REPEAT NOT
ACCEPTED BY DOJ. COUNSEL FOR SIMMONS EXUDED CONFIDENCE
THAT THEY CAN PREVAIL IN THE CIVIL ACTION. THEY APPEAR TO
BE PURSUING THEORY THAT SIMMONS WAS A DUPE OF OTHERS
(MARINI?) AND THAT, AT MOST, HE WAS GUILTY OF SOME TYPE OF
NEGLIGENCE IN CARRYING OUT HIS ASSIGNED DUTIES.
SIMMONS'S COUNSEL INTEND TO RELY PRIMARILY ON TECHINICAL
RULES OF EVIDENCE GOVERNING ADMISSIBILITY.

5. DOJ CONCURS WITH COUNSEL'S RECOMMENDATION THAT INJUNC-
TION AGAINST HANG SENG BANK LTD., BE DISCONTINUED,
PROVIDED THEY AGREE TO EXTEND THEIR CONTINUED COOPERATION,
AND DO NOT PRESS FOR COURT COSTS. KISSINGER

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